

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS JAMES REAL BIRD,

Defendant.

CR 22–46–BLG–DLC

ORDER

Before the Court is United States Magistrate Judge Timothy J. Cavan’s Findings and Recommendation Regarding Revocation of Supervised Release. (Doc. 56.) Neither party objected and therefore they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan found, based on Mr. Real Bird’s admissions at the hearing, that he violated the conditions of his supervised release by using marijuana, failing to report for substance abuse testing, and failing to participate in substance abuse

treatment. (Doc. 56 at 3–4.) Judge Cavan recommends that this Court revoke Mr. Real Bird’s supervised release and sentence him to a custodial sentence of four (4) months, followed by 32 months of supervised release. (*Id.* at 7.) Judge Cavan further recommends placement at FCI Englewood in Littleton, Colorado. The Court finds no clear error in Judge Cavan’s Findings and Recommendation and adopts them in full.

Accordingly, IT IS ORDERED that Judge Cavan’s Findings and Recommendation (Doc. 56) is ADOPTED in full. Mr. Real Bird shall be sentenced in conformity with Judge Cavan’s recommendation in the judgment filed concurrently with this Order.

DATED this 5th day of February, 2024.



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Dana L. Christensen, District Judge  
United States District Court